

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 610 – SB 837

January 30, 2014

SUMMARY OF ORIGINAL BILL: Authorizes local jurisdictions, having previously approved liquor-by-the-drink sales or retail package liquor stores, to hold a referendum authorizing the sale of wine in a “retail food store”.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue –

\$2,419,000/FY14-15/ABC Fund
Exceeds \$4,217,500/FY15-16/ABC Fund
Exceeds \$3,690,000/FY16-17 and Subsequent Years/ABC Fund
\$1,724,800/FY14-15/General Fund
\$7,278,200/FY15-16/General Fund
Exceeds \$7,677,700/FY16-17 and Subsequent Years/General Fund

Increase State Expenditures –

\$1,458,100/FY14-15/ABC Fund
\$2,115,300/FY15-16/ABC Fund
\$2,246,100/FY16-17/ABC Fund
\$1,912,800/FY17-18 and Subsequent Years/ABC Fund

Increase Local Revenue –

Exceeds \$2,260,300/FY14-15/Permissive
Exceeds \$5,873,600/FY15-16/Permissive
Exceeds \$6,014,800/FY16-17 and Subsequent Years/Permissive

SUMMARY OF AMENDMENT (011834): Deletes the original bill in its entirety. Authorizes the sale of wine in retail food stores located in jurisdictions that have approved such sale by referendum.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue –

\$2,034,300/ABC Fund/FY16-17
Exceeds \$2,059,300/ABC Fund/FY17-18
Exceeds \$1,909,300/ABC Fund/FY18-19 and Subsequent Years
\$6,196,700/General Fund/FY16-17
\$8,715,800/General Fund/FY17-18
Exceeds \$9,194,300/General Fund/FY18-19 and Subsequent Years

Increase State Expenditures –

\$1,458,100/ABC Fund/FY16-17
\$1,999,300/ABC Fund/FY17-18
\$1,721,600/ABC Fund/FY18-19
\$1,610,500/ABC Fund/FY19-20 and Subsequent Years

Increase Local Revenue –

\$4,991,600/Permissive/FY15-16
\$5,882,100/Permissive/FY16-17
Exceeds \$6,051,200/Permissive/FY17-18 and Subsequent Years

Assumptions for the bill as amended:

- Licenses will be issued by the Alcoholic Beverage Commission (ABC) only to qualified “retail food stores” in jurisdictions having approved a referendum authorizing the sale of wine in such stores.
- Referendums will be held as part of regularly scheduled elections. Any fiscal impact to local governments associated with the referendums will be not significant.
- The first referendum could be held in November 2014. However, according to the bill as amended, sales could not begin prior to July 1, 2016. As a result, the first fiscal year impacted is estimated to be FY16-17.
- Seventy-five percent of local government jurisdictions that have adopted measures authorizing the sale of liquor-by-the drink or package liquor store sales will authorize the sale of wine at retail food stores.
- The wine excise tax, state sales tax, local option sales tax, the enforcement tax on the sale of alcoholic beverages, and the municipal inspection fees will be impacted by this bill as amended.
- This bill as amended will result in an increase in all tax revenue and fee revenue identified above; however, determining a precise estimate for such revenue increases is difficult in some instances due to a number of unknown factors, such as the extent of stores that will begin selling wine, the extent of such sales by these stores, the prices

charged for wine, the impact upon sales of liquor stores that currently sell wine, and the timing for which retail food stores actually begin selling wine.

- Sales per the provisions of the amended bill would not begin until FY16-17. However, due to a provision in the bill as amended, which prohibits new applicants from obtaining a permit until FY17-18 if within 500 feet of an existing package liquor store, sales at all potentially qualified locations would not begin until FY17-18.
- Based upon prior research by the Fiscal Review Committee staff, conducted for a similar bill for the 2011 legislative session, wine sales for off-premises consumption would increase by 33 percent. Because significantly fewer locations would be permitted under the provisions of this amended bill, it is estimated that Tennessee wine sales would increase by 28 percent.
- Any permissive increase in local government expenditures is estimated to be not significant.

Assumptions related to license fee revenue and enforcement tax (ABC Fund):

- Provisions of the bill as amended would limit the licensees to establishments with a minimum of 1,200 square feet of store space.
- Based upon analysis of food establishments inspected by the Department of Agriculture and in consultation with industry, it is assumed that approximately 2,000 stores would begin selling wine in areas that could potentially authorize the sale of wine in retail food stores.
- Because current liquor store owners will potentially be able to limit certain establishments from being licensed prior to FY17-18, it is assumed that 1,500 (or 75 percent of the total 2,000 stores) will begin operations within the first fiscal year (FY16-17).
- Each store licensee will be subject to a one-time application fee of \$400. The one-time increase in state revenue to the ABC Fund associated with the application fee for the 1,500 stores is estimated to be \$600,000 (1,500 x \$400) in FY16-17. The one-time increase in state revenue to the ABC Fund associated with the application fee for the remaining 500 stores is estimated to be \$200,000 (500 x \$400) in FY17-18.
- The number of new licenses issued in FY18-19 and subsequent years (assuming two percent minimum annual growth) is estimated to be at least 40 (2,000 x 2%) each year. As a result, there will be a recurring increase in state revenue to the ABC Fund estimated to exceed \$16,000 beginning in FY18-19.
- Each current store licensee will be subject to a recurring license fee of \$850. The increase in state revenue to the ABC Fund in FY16-17 attributable to these stores is estimated to be \$1,275,000 (1,500 x \$850). The increase in state revenue to the ABC Fund for FY17-18 is estimated to be \$1,700,000 (2,000 x \$850). The increase in state revenue to the ABC Fund in FY18-19 and subsequent years is estimated to exceed \$1,734,000 (2,040 x \$850).
- Current law authorizes a \$0.15 per case enforcement tax upon the sale of alcoholic beverages sold at wholesale in Tennessee. Revenue from this tax is deposited to the

ABC Fund. Actual FY12-13 collections attributable to wine sales were approximately \$569,020. This number is assumed to remain constant under current law for FY13-14, FY14-15, and FY15-16. Assuming 28 percent growth in annual collections as a result of the bill as amended yields estimated recurring collections of \$728,346 for FY16-17; therefore, an increase in state revenue to the ABC Fund estimated to be \$159,326 ($\$728,346 - \$569,020$) in FY16-17. The increase in state revenue to the ABC Fund in FY17-18 and subsequent years is estimated to exceed \$159,326 (this also accounts for any subsequent growth in wine sales beyond FY16-17).

- The total increase in state revenue to the ABC Fund in FY16-17 is estimated to be \$2,034,326 ($\$600,000 + \$1,275,000 + \$159,326$); the total increase in state revenue to the ABC Fund in FY17-18 is estimated to exceed \$2,059,326 ($\$200,000 + \$1,700,000 + \$159,326$). The recurring increase in state revenue to the ABC Fund in FY18-19 and subsequent years is estimated to exceed \$1,909,326 ($\$16,000 + \$1,734,000 + \$159,326$).

Assumptions related to municipal inspection fees:

- Pursuant to Tenn. Code Ann. §57-3-501, local governments are authorized to charge a permissive municipal inspection fee of a variable percentage (based on population) of the wholesale price of alcoholic beverages supplied by wholesalers. This fee is paid by licensed retailers within the municipality. Based upon a survey of local governments conducted by Fiscal Review Committee Staff, an amount estimated to exceed \$20,000,000 is collected by municipalities statewide each year. Based on information provided by the Department of Revenue (DOR), approximately one-third (or 33.3 percent) of wine excise tax revenue is derived from wine that is consumed on-premises, for which no growth will occur as a result of this bill as amended. The remaining two-thirds (or 66.7 percent) of wine excise tax collections is derived from wine that is consumed off-premises, for which growth will occur as a result of this bill as amended.
- The recurring increase in municipal inspection fee revenue for FY16-17 and subsequent years is reasonably estimated to exceed \$2,801,400 (minimum of $\$20,000,000 \times 66.7\%$ for off-premises consumption $\times 75.0\%$ of jurisdictions adopting $\times 28.0\%$ growth as a result of this bill as amended).

Assumptions related to the wine excise tax:

- According to DOR, the wine excise tax generated collections of \$12,076,700 in FY12-13. This number is assumed to remain constant under current law for FY13-14, FY14-15, and FY15-16.
- Based upon information provided by DOR, approximately one-third (or 33.3 percent) of wine excise tax revenue is derived from wine that is consumed on-premises, for which no growth will occur as a result of this bill as amended. The remaining two-thirds (or 66.7 percent) of wine excise tax collections is derived from wine that is consumed off-premises, for which growth will occur as a result of this bill as amended.

- Based upon historical wine tax collections, wine excise tax revenue is estimated to grow 5.49 percent per year in the absence of this bill as amended.
- Twenty-eight percent revenue growth as a direct result of this bill as amended is applied to the portion of wine excise tax revenue which is attributable to wine consumed off-premises.
- Seventy-five percent of jurisdictions adopt the provisions of this bill as amended.
- Because current liquor store owners will potentially be able to limit certain establishments from being licensed prior to FY17-18, it is assumed that 75 percent of the total increase in revenue collections will take place in FY16-17 and that the total increase in sales will take place in FY17-18 and subsequent years.
- Pursuant to Tenn. Code Ann. § 57-3-306(b)(1), wine excise tax collections are distributed 82.5 percent to the General Fund and 17.5 percent to local governments.
- The fiscal impact relative to wine excise tax revenue is determined using numerous and complex calculations across multiple fiscal years, which are based upon the previous assumptions stated. These calculations have been omitted from this fiscal note for the purpose of brevity. However, the calculations used for determining the following fiscal impact relative to wine excise tax are on file with Fiscal Review Committee staff and can be provided upon request.
- The increase in state revenue to the General Fund is estimated to be \$1,728,194 in FY16-17; \$2,430,763 in FY17-18; and \$2,564,212 in FY18-19 and subsequent years.
- The increase in local government revenue, pursuant to Tenn. Code Ann. § 57-3-306(b)(1), is estimated to be \$366,587 in FY16-17; \$515,616 in FY17-18, and \$543,924 in FY18-19 and subsequent years.

Assumptions related to state and local sales tax:

- Based on information provided by the Department of Revenue, approximately 50,374,977 bottles of wine were sold in Tennessee in FY12-13. This number is assumed to remain constant under current law for FY13-14, FY14-15, and FY15-16.
- One-third (or 33.3 percent) of these bottles (16,774,867) were sold for on-premises consumption.
- Two-thirds (or 66.7 percent) of these bottles (33,600,110) were sold for off-premises consumption. The number of bottles that will be purchased for off-premises consumption is expected to grow by 28 percent as a result of this bill as amended.
- Per historical growth for wine excise tax collections, the retail sale of wine is expected to grow by 5.49 percent per year under current law.
- Seventy-five percent of jurisdictions will adopt the provisions of this bill as amended.
- The average price for a bottle of wine is estimated to be \$7.98 and is assumed to remain constant into perpetuity under current law.
- Due to increased competition, expected as a result of this bill as amended, the average price of a bottle of wine is estimated to decrease to approximately \$7.58 per bottle (approximately a five percent price decrease).

- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent.
- Pursuant to Tenn. Code Ann. §67-6-103(a)(3)(A), local governments receive 4.603 percent of state sales tax revenue as state-shared sales tax revenue.
- Pursuant to Tenn. Code Ann. §67-6-103(q), no portion of revenue derived from the 0.5 percent sales tax rate increase, from 5.5 percent to 6.0 percent (effective April 1, 1992), or the 1.0 percent sales tax rate increase, from 6.0 percent to 7.0 percent (effective July 15, 2002), shall be distributed to local government.
- The effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent $[(5.5\% / 7.0\%) \times 4.603\%]$.
- The fiscal impact relative to state and local sales tax revenue is determined using numerous and complex calculations across multiple fiscal years, which are based on the previous assumptions stated. These calculations have been omitted from this fiscal note for the purpose of brevity. However, the calculations used for determining the following fiscal impact relative to sales tax revenue are on file with Fiscal Review Committee staff and can be provided upon request.
- Because current liquor store owners will potentially be able to limit certain establishments from being licensed prior to FY17-18, it is assumed that 75 percent of the total increase in revenue collections will take place in FY16-17 and that the total increase in sales will take place in FY17-18 and subsequent years.
- The net increase in state sales tax revenue for FY16-17 is estimated to be \$4,468,475; for FY17-18 is estimated to be \$6,285,059; and for FY18-19 and subsequent years is estimated to exceed \$6,630,109.
- The total increase in local government sales tax revenue for FY16-17 is estimated to be \$1,823,659; for FY17-18 is estimated to be \$2,565,037; and for FY18-19 and subsequent years is estimated to exceed \$2,705,858.

Assumptions related to revenue impacts to the General Fund and to local governments:

- The total increase in state revenue to the General Fund for FY16-17 is estimated to be \$6,196,669 (\$1,728,194 from wine excise tax + \$4,468,475 from state sales tax revenue); for FY17-18 is estimated to be \$8,715,822 (\$2,430,763 from wine excise tax + \$6,285,059 from state sales tax revenue); for FY18-19 and subsequent years is estimated to exceed \$9,194,321 (\$2,564,212 from wine excise tax + \$6,630,109 from state sales tax revenue).
- The total increase in local government revenue for FY16-17 is estimated to be \$4,991,646 (\$2,801,400 from municipal inspection fees + \$366,587 from wine excise tax + \$1,823,659 from local sales taxes); for FY17-18 is estimated to be \$5,882,053 (\$2,801,400 from municipal inspection fees + \$515,616 from wine excise tax + \$2,565,037 from local sales taxes); for FY18-19 and subsequent years is estimated to exceed \$6,051,182 (\$2,801,400 from municipal inspection fees + \$543,924 from wine excise tax + \$2,705,858 from local sales taxes).

Assumptions related to required positions for ABC:

- ABC will require a total of 30 new positions, including 21 agents for regulating and investigating the new licensees, five secretaries, one administrative assistant to perform administrative functions necessary for the issuance of new licenses, one additional human resources staff person, and two training specialists.
- These positions will be phased-in over a three-year period as follows: 10 agents, four secretaries, one human resource position, one administrative assistant, and one training specialist (a total of 17 positions) in FY16-17; an additional nine agents, one additional secretary, and one additional training specialist (a total of 11 positions) in FY17-18; and two additional agents in FY18-19.
- The recurring increase in state expenditures from the ABC Fund for each new agent position is estimated to be \$60,455 (\$32,412 salary, \$11,985 benefits, \$16,058 other). One-time state expenditures from the ABC Fund for each new agent position are estimated to be \$55,560, which includes costs for mental and physical examinations, equipment, training, computer and related accessories, and vehicle costs.
- The recurring increase in state expenditures from the ABC Fund for each new secretary position is estimated to be \$34,190 (\$21,460 salary, \$9,210 benefits, \$3,520 other). One-time state expenditures from the ABC Fund for each new secretary position are estimated to be \$5,125, which includes costs for supplies, equipment, training, and computer related costs.
- The recurring increase in state expenditures from the ABC Fund for the new human resources position is estimated to be \$42,200 (\$29,900 salary, \$10,500 benefits, \$1,800 other). One-time state expenditures from the ABC Fund for this position are estimated to be \$5,500 which includes costs for computer, software, supplies, etc.
- The recurring increase in state expenditures from the ABC Fund for the administrative assistant position is estimated to be \$38,200 (\$26,400 salary, \$10,000 benefits, \$1,800 other). One-time state expenditures from the ABC Fund for this position are estimated to be \$5,500, which includes costs for computer, software, supplies, etc.
- The recurring increase in state expenditures from the ABC Fund for each new training specialist position is estimated to be \$44,800 (\$28,650 salary, \$10,300 benefits, \$5,850 other). One-time state expenditures for each of these positions are estimated to be \$4,500, which includes computer related costs and supplies.
- The total recurring increase in state expenditures from the ABC Fund for the 17 positions added in FY16-17 is estimated to be \$866,510 [(10 agents x \$60,455) + (4 secretaries x \$34,190) + \$42,200 + \$38,200 + \$44,800]. The total one-time increase in state expenditures from the ABC Fund for the 17 positions added in FY16-17 is estimated to be \$591,600 [(10 agents x \$55,560) + (4 secretaries x \$5,125) + \$5,500 + \$5,500 + \$4,500]. The total increase in state expenditures from the ABC Fund for FY16-17 is estimated to be \$1,458,110 (\$866,510 + \$591,600).
- The total recurring increase in state expenditures from the ABC Fund for 28 total positions (17 from FY16-17 + 11 for FY17-18) added by FY17-18 is estimated to be \$1,489,595 [(19 agents x \$60,455) + (5 secretaries x \$34,190) + \$42,200 + \$38,200 + (2

training specialists x \$44,800)]. The total one-time increase in state expenditures from the ABC Fund for adding the 12 new positions in FY17-18 is estimated to be \$509,665 [(9 agents x \$55,560) + \$5,125 + \$4,500]. The total increase in state expenditures from the ABC Fund for FY17-18 is estimated to be \$1,999,260 (\$1,489,595 + 509,665).

- The total recurring increase in state expenditures from the ABC Fund for 30 total positions (17 from FY16-17 + 11 from FY17-18 + 2 for FY18-19) added by FY18-19 is estimated to be \$1,610,505 [(21 agents x \$60,455) + (5 secretaries x \$34,190) + \$42,200 + \$38,200 + (2 training specialists x \$44,800)]. The total one-time increase in state expenditures from the ABC Fund for adding the 2 new positions in FY18-19 is estimated to be \$111,120 (2 agents x \$55,560). The total increase in state expenditures from the ABC Fund for FY18-19 is estimated to be \$1,721,625 (\$1,610,505 + \$111,120).
- The recurring increase in state expenditures from the ABC Fund beginning in FY19-20 is estimated to be \$1,610,505.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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